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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report by the Special Rapporteur on the human rights of migrants, François Crépeau

Addendum

Mission to Malta: comments by the State on the report of the Special Rapporteur on the human rights of migrants*

* Reproduced as received.

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Mission to Malta : comments by the State on the report of the Special Rapporteur on the human rights of migrants

The following document represents the views and comments of the Government of Malta in respect of the Report of the Special Rapporteur on the human rights of migrants, drafted following a country visit to the Malta from 6-10 December 2014.

National institutions and policies- (page 7):

The Ministry for Education and Employment is responsible for all issues relating to labour market issues and migrants. It also implements policy which allows for certain categories of migrants to apply for an exemption from the payment of tuition fees in state educational institutions.- No comments

B. Labour exploitation- (Page 18):

- The Special Rapporteur received information about the exploitation of irregular migrants, asylum seekers and refugees, by employers in Malta, as they refrain from protesting and mobilising due to their fear of being detected, detained and deported. Migrant workers in an irregular situation are made to work long hours and paid wages that are below the minimum wage in Malta, often in the construction, tourism and care-giving industries. They have to pay taxes but do not all share the same rights as citizens. For example, employers give migrants low wages and do not provide them with safety equipment or insurance.

- The Special Rapporteur learnt that government contractors and sub-constructors are prohibited from exploiting workers, including migrants. Those found exploiting workers are blacklisted and cannot get a government contract for three years. However, the Special Rapporteur observed that sanctions against employers are very rare and the EU Employer Sanction Directive remains unimplemented in Malta, as is the case throughout Europe.

- There are currently twenty labour inspectors who work together with the Migration police. Although labour inspectors are not empowered to check immigration papers, it is not clear whether they conduct operations with the immigration police: this would be a very bad practice, as it would not provide incentives for migrants to call labour inspectors or health and safety inspectors when work conditions are unsafe or in violation of labour laws. There is a need for firewalls between public service and immigration enforcement, so that labour inspections can be carried out without having to divulge anyone's immigration status.

- Migrant workers are workers, whatever their immigration status, and should be treated equally under labour laws. Furthermore, it is important that Malta acknowledges that it has jobs for which it needs migrant workers, including low-wage migrants, and thus open legal channels for migrants of all skill levels to come to Malta.

Feedback:

As an EU Member State, Malta has accepted the freedom of movement rights of EU nationals and their family members/dependents but reserves the right to demand a transitory period for new countries acceding the EU. Malta also abides by any agreements entered into by the European Commission and non-EU Member States concerning freedom of

movement. EU citizens and citizens agreed by such agreements take precedence over nationals of other countries in taking up employment in Malta. Irregular migrants enjoying subsidiary protection status issued by the Refugee Commissioner in Malta are given immediate rights to work in Malta. Other third country nationals have to go through the security and labour market test channels in order to qualify for the right to work in Malta. The demand by employers for low skilled and low paid individuals should not require the Government of Malta to open the legal channels, as this may give rise to non-adherence to legal framework concerning minimum conditions of employment. Moreover, the Government has a declared policy of steering the Maltese economy towards high-value added services requiring highly qualified and skilled personnel.

Furthermore, the report proposes the following recommendations:

Fully implement its legislation to combat direct or indirect racial discrimination with regard to the enjoyment of economic, social and cultural rights by immigrants, in particular refugees and asylum-seekers, including access to private rental housing and the labour market. (page 22) .- No comments